UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,336	12/12/2003	Abhay Sathe	10030721-1	7472

7590 06/17/2008

AGILENT TECHNOLOGIES , INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER	
DAO, THUY CHAN	
ART UNIT	**PAPER NUMBER**
2192	

MAIL DATE	DELIVERY MODE
06/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/733,336	SATHE, ABHAY	
	Examiner	Art Unit	
	Thuy Dao	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17 and 19-25* is/are pending in the application.

4a) Of the above claim(s) *18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17 and 19-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment filed on March 12, 2008.

2. Claims 1-17 and 19-25 have been examined.

Response to Amendments

3. In the instant amendments, claims 1, 3, 17, and 19-20 have been amended; claim 18 has been canceled.

4. The 35 USC §101 rejection over claims 1-19 and 21-25 is withdrawn in view of Applicant's amendments.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections – 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-17, 19, and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,137,782 to Sharon et al. (art made of record, hereafter "Sharon").

Claim 1:

Sharon discloses *an apparatus comprising:*

a plurality of libraries of software modules maintained at a plurality of test locations, respectively, of a network (e.g., FIG. 1, agents 14, col.5: 63 – col.6: 18; agents 14 deployed at selected network computers, col.5: 18-25)*; and*

a computer configured to i) display a graphical end user interface (GUI) (e.g., FIG. 7, col.11: 51-67)) *via*

which an end user constructs a graphical model of a coordinated multi-location test of the network (e.g., FIG. 8A-B, col.12: 1-11)*,*

the graphical model including flows respectively corresponding to the test locations (e.g., col.3: 27-52)*,*

a respective flow for a corresponding test location being a flow of software modules from the library maintained at the corresponding test location (e.g., col.5: 63 – col.6: 18; col.6: 38-48)*, and*

ii) output the flows to at least one of the test locations (e.g., col.4: 64 – col.5: 8; col.6: 19-37)*.*

Claim 2:

The rejection of claim 1 is incorporated. Sharon discloses *the GUI is run at a location remote from at least one test location, so that the end user constructs the graphical model and runs the test from the remote location* (e.g., FIG. 1, Central Management Engine CME 12, col.5: 41-62)*.*

Claim 3:

Sharon discloses *an apparatus comprising:*

a library of software modules (e.g., FIG. 1, Central Management Engine CME 12, col.5: 41-62)*; and*

a computer configured to i) display a graphical end user interface (GUI) via which an end user constructs a graphical model of a coordinated multi-location test of a network (e.g. FIG. 7, col.11: 51-67; col.5: 63 - col.6: 18)*,*

the graphical model including flows respectively corresponding to test locations of the network (e.g., FIG. 8A-B, col.12: 1-11)*,*

a respective flow for a corresponding test location being a flow of software modules from the library (e.g., col.5: 63 – col.6: 18)*, and*

ii) output the flows to at least one of the test locations (e.g., col.4: 64 – col.5: 8; col.6: 19-37).

Claim 4:

The rejection of claim 3 is incorporated. Sharon discloses *the GUI is run at a location remote from at least one test location, so that the end user constructs the graphical model and runs the test from the remote location* (e.g., col.5: 41-62).

Claim 5:

The rejection of claim 3 is incorporated. Sharon discloses *each flow sequentially runs the software modules contained therein* (e.g., col.5: 63 – col.6: 18).

Claim 6:

The rejection of claim 3 is incorporated. Sharon discloses *the software modules comprise: test modules that perform predefined test operations; and coordination modules to coordinate inter-operation of test modules in different flows* (e.g., col.8: 1-38).

Claim 7:

The rejection of claim 6 is incorporated. Sharon discloses *coordination modules are employed in a pair, comprising: a first member of the pair employed in a first flow to send a coordination message to a second flow* (e.g., col.8: 26-59)*; and*

a second member of the pair employed in the second flow to receive the coordination message from the first member (e.g., col.10: 4-21).

Claim 8:

The rejection of claim 7 is incorporated. Sharon discloses *the coordination message also contains test generated data* (e.g., col.10: 14-46).

Claim 9:

The rejection of claim 8 is incorporated. Sharon discloses *the test generated data is formatted in a predefined format* (e.g., col.11: 2-49).

Claim 10:

The rejection of claim 8 is incorporated. Sharon discloses *each test location has an associated information holding environment, in which the test generated data is stored* (e.g., col.6: 38 – col.7: 24).

Claim 11:

The rejection of claim 3 is incorporated. Sharon discloses *a conversion unit to generate the flows from the graphical model* (e.g., col.11: 51 – col.12: 11).

Claim 12:

The rejection of claim 11 is incorporated. Sharon discloses *the conversion unit comprises: a converter to convert the graphical model into text; and a parser to generate the flows from the text* (e.g., col.7: 7-25; col.10: 58-64).

Claim 13:

The rejection of claim 12 is incorporated. Sharon discloses *the parser interacts with the library to generate the flows* (e.g., col.7: 7-25; col.10: 58-64).

Claim 14:

The rejection of claim 12 is incorporated. Sharon discloses *a language used by the converter to convert the graphical model into text is XML* (e.g., col.4: 5-60).

Claim 15:

The rejection of claim 3 is incorporated. Sharon discloses *the library is centrally located* (e.g., col.5: 41-62).

Claim 16:

The rejection of claim 3 is incorporated. Sharon discloses *a copy of the library is distributed to each test location* (e.g., col.4: 5-38).

Claim 17:

Sharon discloses *an apparatus comprising:*

a library of software modules, including test modules and coordination modules (e.g., FIG. 1, Central Management Engine CME 12, col. 5: 41-62; col.6: 38-48)*; and*

a computer configured to i) display a graphical end user interface (GUI) via which an end user constructs a graphical model of a coordinated multi-location test of a network (e.g., FIG. 7-8, col.11: 51 – col.12: 11; col.5: 63 – col.6: 18; col.5: 18-25),

the graphical model including flows respectively corresponding to test locations of the network (e.g., col.3: 27-52),

a respective flow for a corresponding test location being a flow of at least one software module (e.g., col.5: 63 – col.6: 18; col.6: 38-48),

wherein test modules perform predefined test operations and coordination modules coordinate inter-operation of test modules in different flows (e.g., col. 8: 1-38; col.10: 14-46); col.11: 2-49)*, and*

ii) output the flows to at least one of the test locations (e.g., col.6: 19-37; col.4: 64 – col.5: 8).

Claim 19:

Sharon discloses *an apparatus comprising:*

a library of software modules, including test modules, and coordination modules (e.g., col.5: 63 – col.6: 18; col.5: 18-25; col.10: 14 – col.11: 49)*;*

a computer configured to i) display a graphical end user interface to design a graphical model of software to test multiple test locations of a network (e.g., FIG. 7-8, col.11; 67 – col.12: 11),

in which a flow of at least one software module is constructed for each test location (e.g., col.5: 18-25)*, and*

coordination modules coordinate inter-operation of test modules in different flows (e.g., col.8: 1-38; col.10: 14 – col.11: 49) *and*

communicate test generated data with the different flows, and ii) output the flows to at least one of the test locations (e.g., col.4: 64 – col.5: 8; col.6: 19-37)*;*

a conversion unit to generate the flows from the graphical model; at least one agent to run the flows (e.g., col.3: 27-52; col.5: 18-25)*;*

at least one probe deployed at each test location to collect data from at least one attribute of the network and communicate the data with the at least one agent (e.g., col.8: 1-59; col.10: 4-21; col.11: 2-49)*; and*

a central controller computer configured to control running of the flows and collect the data from the at least one agent (e.g., FIG. 1, Central Management Engine CME 12, col.5: 41-62)*.*

Claim 21:

The rejection of claim 1 is incorporated. Sharon discloses *a plurality of agents at the plurality of test locations, wherein the software modules are operable to access a data store of the agents* (e.g., col.10: 14-46)*.*

Claim 22:

The rejection of claim 1 is incorporated. Sharon discloses *the software modules performing the test of the network report a 'test failed' at the outset, and change the result to success only if all the tests applied by the module succeed* (e.g., col.10: 22-57)*.*

Claim 23:

The rejection of claim 1 is incorporated. Sharon discloses *the graphical model is viewed as a multi-branch hierarchical tree and dotted arrows show co-ordination points between the flows* (e.g., col.11: 51 – col.12: 11)*.*

Claim 24:

The rejection of claim 1 is incorporated. Sharon discloses *the software modules comprise a send email and a receive email module* (e.g., col.9: 21-61).

Claim 25:

The rejection of claim 24 is incorporated. Sharon discloses *the receive email module uses unique identifying information about an email to select the email from a plurality of received emails* (e.g., col.4: 19-38; col.3: 27-52).

Claim Rejections – 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharon in view of US Patent Publication No. 2004/0158630 A1 to Chang et al. (art made of record, hereafter "Chang").

Claim 20:

Sharon discloses *a computer readable medium, comprising:*

a first set of instructions housing a library of software modules, including test modules and coordination modules (e.g., col.5: 63 – col.6: 18; col.6: 38-48)*;*

a second set of instructions creating a graphical user interface (GUI) (e.g., FIG. 7-8, col.11: 51 – col.12: 11)

via which an end user constructs a graphical model for a coordinated multi-location test of a network (e.g., col.5: 18-25; col.5: 63 – col.6: 18)*,*

the graphical model including flows respectively corresponding to test locations of a network (e.g., col.3: 27-52)*,*

a respective flow for a corresponding test location being a flow of at least one software module (e.g., col.5: 63 – col.6: 18; col.6: 38-48)*;*

Sharon does not explicitly disclose other limitations. However, in an analogous art, Chang further discloses:

a third set of instructions to convert the graphical model to a text representation of the multi-location test (e.g., [0046], [0071])*;*

a fourth set of instructions controlling an agent to receive and analyze the text representation, access the library, and run the flows for each test location (e.g., [0081])*; and*

a fifth set of instructions coordinating synchronization and exchange of test generated data between flows (e.g., [0046], [0071], [0081])*.*

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Chang's teaching into Sharon's teaching. One would have been motivated to do so to monitor network activity in real-time with minimum unnecessary traffic as suggested by Chang (e.g., [0019], [0046]).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thuy Dao/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192